

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

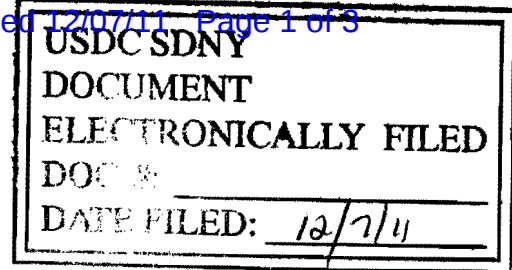
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CHRISTOPHER BONILLA,

Plaintiff,

-v.-

H&M HENNES & MAURITZ AB,

Defendant.
-----X



REPORT AND
RECOMMENDATION

11 Civ. 4680 (GBD) (JLC)

JAMES L. COTT, United States Magistrate Judge.

To the Honorable George B. Daniels, U.S.D.J.:

On July 7, 2011, pro se Plaintiff Christopher Bonilla filed a Complaint in this case and the Clerk of the Court issued a Summons as to Defendant H&B Hennes & Mauritz AB. (Dkt. Nos. 1-2). Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiff was required to serve the Summons and Complaint on Defendant no later than 120 days upon issuance of the Summons, or in this case, by November 4, 2011. By Order dated November 8, 2011, I extended the deadline by which Plaintiff was required to serve the Summons and Complaint to December 5, 2011, and warned that failure to do so could lead to dismissal of this case. (Dkt. No. 6).

To date, no proof of service of the Summons and Complaint has been filed. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

The 120-day period permitted under Rule 4(m) has expired, and Plaintiff has not shown good cause for the failure to serve the Summons and Complaint.

USDC SDNY
DATE SCANNED

12/7/11

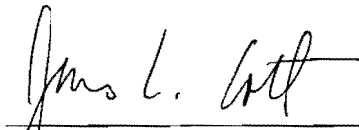
For these reasons, and because this is not a case in which the Court should exercise its discretion to grant an extension in the absence of good cause, see Zapata v. City of New York, 502 F.3d 192 (2d Cir. 2007), I recommend that the Complaint be dismissed without prejudice pursuant to Rule 4(m).

PROCEDURE FOR FILING OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections, and any responses to such objections, shall be filed with the Clerk of Court, with courtesy copies delivered to the chambers of the Honorable George B. Daniels and to the chambers of the undersigned, United States Courthouse, 500 Pearl Street, New York, New York, 10007.

Any requests for an extension of time for filing objections must be directed to Judge Daniels. **FAILURE TO FILE OBJECTIONS WITHIN FOURTEEN (14) DAYS WILL RESULT IN A WAIVER OF OBJECTIONS AND WILL PRECLUDE APPELLATE REVIEW.** See Thomas v. Arn, 474 U.S. 140 (1985); Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C., 596 F.3d 84, 92 (2d Cir. 2010) (citing Cephas v. Nash, 328 F.3d 98, 107 (2d Cir. 2003) and Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

Dated: New York, New York
December 7, 2011



JAMES L. COTT
United States Magistrate Judge

Copies sent via Regular Mail to the following:

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